

**TENNESSEE STATE BOARD OF EQUALIZATION**  
**BEFORE THE ADMINISTRATIVE JUDGE**

IN RE:	Interchange Distribution, LP	)	
	Ward 073, Block 101, Parcel 00079	)	Shelby County
	Industrial Property	)	
	Tax Year 2005	)	

**INITIAL DECISION AND ORDER**

**Statement of the Case**

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$714,400	\$1,559,900	\$2,274,300	\$909,720

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on September 20, 2006 in Memphis, Tennessee. In attendance at the hearing were registered agent Jim Schwalls and Shelby County Property Assessor's representative Rick Middleton, TCA.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Subject property consists of a distribution warehouse constructed in 1973 located at 4290 Delp Street in Memphis, Tennessee. Subject property contains 151,984 square feet of rentable area.<sup>1</sup>

The taxpayer contended that subject property should be valued at \$1,750,000. In support of this position, the income approach was introduced into evidence.

The assessor contended that subject property should be valued at \$2,214,900 based upon the income approach. Mr. Middleton's analysis also included a summary of 12 large "B" grade warehouse sales and their appraised values.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$2,015,900 after rounding in accordance with the following income approach:

---

<sup>1</sup> The administrative judge has utilized the taxpayer's slightly higher estimate of rentable area (151,984 vs. 151,620) since the rent roll and leases reflect that square footage.



Potential Gross Income	\$ 249,254
Less Vacancy and Collection Loss	- 29,910
Effective Gross Income	\$ 219,344
Less Operating Expenses	- 22,798
Net Operating Income	\$ 196,546
Cap Rate	÷ 9.75%
Indicated Value	\$2,015,856

The administrative judge finds that the taxpayer's contended rental rate of \$1.64 per square foot should be adopted for purposes of estimating potential gross income. The administrative finds that subject property was 100% vacant from August 1, 2002 through April 1, 2004. On April 1, 2004, 41,496 square feet was leased at an average rental rate of \$1.64 per square foot.<sup>2</sup> Given the fact that 72.7% of the property remains vacant and the current lease was the best that could be achieved, a rental rate of \$1.64 per square foot appears reasonable.

The administrative judge finds that Mr. Middleton's proposed rental rate of \$2.00 per square foot was based upon a model utilized in the 2005 reappraisal program. The administrative judge finds that no actual rent comparables were introduced into evidence. Moreover, it would seem reasonable to assume that subject property is distressed in comparison to the properties which were the basis for the assumptions in the model.

The administrative judge finds that a 12% vacancy and collection loss allowance and expenses equal to 15¢ per square foot should be assumed as both Messrs. Schwalls and Middleton utilized these figures in their respective income approaches.

The administrative judge finds that a 9.75% capitalization rate should be adopted in accordance with the capitalization rate analysis prepared by John W. Cherry, Jr., MAI, CRE and Karen Burkhardt Dick, CRE. The administrative judge finds that page 23 of the analysis indicates that sales of properties like the subject reflect a 9.75% capitalization rate when reserves are not expensed. When reserves are expenses the study indicates a 9% rate is appropriate.

The administrative judge finds that any possible future expenditure for roof replacement should be accounted for through the reserve component of the adopted capitalization rate. The administrative judge finds it inappropriate to simply deduct \$161,458 from the indicated value as contended by Mr. Schwalls. Indeed, it has not even been established that the roof requires replacement or what it would actually cost to do so.

#### ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

<sup>2</sup> The lease has a series of step-ups. The rental rate was \$1.50 per square foot on January 1, 2005. The rental rate increases to \$1.75 on August 1, 2005 and \$2.00 on August 1, 2008.



<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$714,400	\$1,301,500	\$2,015,900	\$806,360

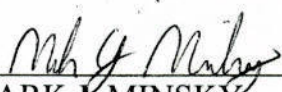
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 10th day of October, 2006.

  
 MARK J. MINSKY  
 ADMINISTRATIVE JUDGE  
 DEPARTMENT OF STATE  
 ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Jim Schwalls  
 Tameaka Stanton-Riley, Appeals Manager